

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 02-0020
Corporate Income Tax
For the Tax Years 1996-1999

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ISSUE

I. Tax Administration-Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2 (b).

STATEMENT OF FACTS

The Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional corporate income tax, interest, and penalty for the tax years ending June 30, 1996 through June 30, 1999 on the taxpayer.

Discussion

The taxpayer protests the imposition of the ten percent (10%) negligence penalty pursuant to IC 6-8.1-10-2.1. Indiana Regulation 45 IAC 15-11-2 (b) clarifies the standard for the imposition of the negligence penalty as follows:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to reach and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayer failed to file an amended Indiana return when its federal return was amended. The taxpayer also reported net receipts rather than gross receipts from a sale on its gross income tax return. Further, for adjusted gross income tax purposes, the taxpayer deducted losses and intercompany receipts even though it filed separately from its related Indiana corporations. These breaches of the taxpayer's duties to file accurate returns and pay the appropriate amount of tax to the state constitutes negligence.

Finding

The taxpayer's protest is denied.